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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,
12 Plaintiff,

13 v.

14 MARVIN NELSON,
15 Defendant.
16

)
) No. CR 07-00364 CW

)
) STIPULATION AND [PROPOSED]
) ORDER CONTINUING TRIAL AND
) PRETRIAL CONFERENCE DATES;
) SETTING CHANGE OF PLEA DATE

17 IT IS HEREBY STIPULATED, by and between the parties to this action, that the trial date in
18 this case, currently scheduled for January 7, 2008, before Honorable Claudia Wilken, may be
19 continued to February 26, 2008 at 8:30 a.m. The parties further agree that the pretrial conference,
20 currently scheduled for December 19, 2007 at 2:30 p.m., may be continued to February 6, 2008, at
21 2:30 p.m. The parties further agree that the case should be set before the Court on December 12,
22 2007, at 2:30 p.m. for change of plea or status.
23

24 The reason for the request is that counsel has retained a psychiatrist to evaluate Mr. Nelson and
25 the process is still ongoing. The evaluation is necessary for effective preparation because the
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1 psychiatrist is evaluating Mr. Nelson's childhood history and other factors as they relate to his
 2 mental state at the time of the offense. The information is pertinent either at trial or at sentencing.
 3 Additional time is needed for the evaluation to be completed and considered by the government as it
 4 determines whether to retain its own expert. Therefore, the trial date should be continued to allow
 5 the evaluation to be completed and considered by the government.
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7 Furthermore, the parties are discussing a disposition and it is anticipated that Mr. Nelson will
 8 change his plea. However, additional investigation and discussions are necessary in preparation for
 9 the change of plea. Therefore the parties are requesting that the case be set on the Court's calendar
 10 for December 12, 2007, at 2:30 p.m. for change of plea.
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12 The parties stipulate that the time from January 7, 2008 to February 26, 2008, should be
 13 excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(8)(A) and
 14 (h)(4) for adequate preparation of counsel so that counsel can continue its investigation and Mr.
 15 Nelson's evaluation can be completed. In addition, defense counsel will be unavailable for two
 16 weeks in February, 2008 and so the Court can exclude time based upon continuity of counsel.
 17

/S/

18 DATED: 12/03/07

 19 JOYCE LEAVITT
 Assistant Federal Public Defender

/S/

21 DATED: 12/03/07

 22 CHINHAYI COLEMAN
 Assistant United States Attorney

23 SIGNATURE ATTESTATION

24 I hereby attest that I have on file all holograph signatures for any signatures indicated by
 25 a "conformed" signature (/S/) within this e-filed document.
 26

ORDER

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the trial date in this case, currently scheduled for January 7, 2008, is continued to February 26, 2008. The pretrial conference, currently scheduled for December 19, 2007 at 2:30 p.m., is hereby continued to February 6, 2008, at 2:30 p.m. It is further ordered that the case be placed on the Court's calendar on December 12, 2007, at 2:30 p.m. for change of plea or status.

IT IS FURTHER ORDERED that the time from January 7, 2008 to February 26, 2008, is hereby excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(8)(A) and (h)(4) for adequate preparation of counsel so that Mr. Nelson's psychiatric evaluation can be completed and defense counsel can continue its investigation in anticipation of a change of plea, as well as for continuity of counsel.

SO ORDERED.

DATED:

HONORABLE CLAUDIA WILKEN
United States District Judge